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September 14, 2020

**VIA CERTIFIED MAIL & ELECTRONIC MAIL**

Citizen Suit Coordinator Department of Justice Environment and Natural Resources Division Law and Policy Section P.O. Box 7415 Ben Franklin Station Washington, DC 20044-7415	Administrator U.S. Environmental Protection Agency Mail Code: 1101A 1200 Pennsylvania Avenue, N.W. Washington, DC 20460
Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA 94105	

**Re: Edgar Villalpando v. Blair Adhesive Products, Inc., et al.**  
**CACD Case No. 2:19-cv-080611-ODW-PLA**

To Whom It May Concern:

We represent Plaintiff Edgar Villalpando in the above-referenced action. Please find enclosed a copy of the Settlement Agreement and Release as entered into between the Parties in the above-referenced action to for review pursuant to the Clean Water Act, 33 U.S.C. § 1365(c)(3) and 40 C.F.R. 135.5.

Respectfully,

*Evan J. Smith*

Evan J. Smith

## SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims is entered into on September 11, 2020, by and between Edgar Villalpando, referred to in this Agreement as "Mr. Villalpando," and Blair Adhesive Products, referred to in this Agreement as "Blair Adhesives." Mr. Villalpando and Blair Adhesives are, collectively, "the Parties."

### RECITALS

This Agreement is entered into with reference to the following facts:

A. On July 24, 2019, through his attorneys Brodsky & Smith, LLC, Mr. Villalpando submitted a Notice of Violations and intent to file suit under for alleged violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at Blair Adhesives' Facility located at 11034 Lockport Pl., Santa Fe Springs, CA 90670 (the "Facility"). Mr. Villalpando alleged violations of the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges (the "Industrial General Permit"), specifically: Discharges in Excess of BAT/BCT Levels; Discharges Impairing Receiving Waters; Failure to Develop and Implement an Adequate Stormwater Pollution Prevention Plan; Failure to Develop and Implement an Adequate Monitoring and Reporting Program; and, Unpermitted Discharges. Mr. Villalpando indicated his intent to file a citizen suit under CWA §505(a) against Blair Adhesives for the above-referenced alleged violations. Mr. Villalpando stated his intentions to seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA §§ 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, Mr. Villalpando stated his intention to seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against Blair Adhesives.

B. On October 7, 2019, more than sixty days after having delivered his Notice of Violations and intent to file suit to Defendant, Villalpando, through his attorneys Brodsky & Smith, LLC, filed with the United States District Court for the Central District of California, a Complaint against Defendant for violations of the Clean Water Act. Villalpando's Complaint is docketed at case no. 2:19-cv-08611-ODW-PLA. On October 10, 2019, the summons and complaint were served upon Blair Adhesives, as confirmed in the parties' First Stipulation to Extend Time to Respond to Complaint filed with the Court on October 30, 2019.

C. The allegations present in Mr. Villalpando's Notice of Violations and Complaint stemmed from the fact that, at the time of Mr. Villalpando's Notice of Violations, continuing through the filing of the Complaint, the required stormwater testing data for the Facility had not been certified and uploaded to the California Storm Water Multiple Application and Report Tracking System ("SMARTS") and were not publicly available.

D. On November 26, 2019, Blair Adhesives filed its Answer with the Court, denying the allegations set forth in Plaintiff's Complaint and raised numerous affirmative defenses.

E. Blair Adhesives continues to deny any and all alleged violations stated in Plaintiff's Complaint.

F. Counsel for the Parties have engaged in numerous settlement discussions for the past several months.

G. After Plaintiff's Notice of Violations and Complaint were served, Defendant made changes in regards to its stormwater reporting procedures and Defendant contends it is currently operating in accordance with the Industrial General Permit ("IGP"), the CWA, and the executory provisions of this Agreement.

H. Blair Adhesives has taken material steps to ensure compliance with the IGP and CWA, including amending its certification and reporting procedures, to ensure timely upload of stormwater reports to the SMARTS system, and to ensure proper and timely notification to the relevant governmental and/or regulatory authorities.

I. The parties desire to settle and compromise their dispute concerning Mr. Villalpando's claims upon the terms and conditions set forth below.

#### TERMS OF SETTLEMENT

In consideration of the compromise of their respective claims and contentions, and the mutual promises, representations, and warranties contained in this Agreement, the parties agree as follows:

1. Blair Adhesives shall cause the following to be carried out and completed within Forty-Five (45) days after this Agreement is executed:
  - a. Comply with the stormwater testing, certification, and upload requirements of the IGP by ensuring that all required testing under IGP § XI is carried out properly, certified, and uploaded to the SMARTS system within the time limits proscribed by the IGP.
2. Blair Adhesives shall pay the cash sum of Ten Thousand Dollars (\$10,000.00) ("Settlement Payment") in attorneys' fees and cost within 21 days of the full execution of this agreement. The check for the entire amount shall be made payable to "Brodsky & Smith, LLC Trust Account" and held in trust until the civil action is dismissed with prejudice. Brodsky & Smith, LLC shall provide a W-9 to Blair Adhesives for that purpose.
3. Mr. Villalpando, on behalf of himself and his spouse, heirs, successors, and personal representatives, now and forever releases and discharges Blair Adhesives and Blair

Adhesives' successors, attorneys, insurers, brokers, principals, officers, directors, shareholders, partners, agents, employees, and contractors, from any and all claims, demands, losses, expenses, damages, liabilities, actions, and causes of action of any nature that in any manner arise from or relate to the described above allegations. Blair Adhesives now and forever releases and discharges Mr. Villalpando, his attorneys, from any and all claims, demands, losses, expenses, damages, liabilities, actions, and causes of action of any nature that in any manner arise from or relate to the notice of intent issued as described above.

4. The preceding release extends to and includes any and all claims, liabilities, injuries, damages, and causes of action that the parties do not presently anticipate, know, or suspect to exist, but that may develop, accrue, or be discovered in the future. MR. VILLALPANDO EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Mr. Villalpando represents and warrants that he has considered the possibility that claims, liabilities, injuries, damages, and causes of action that he does not presently know or suspect to exist in his favor may develop, accrue, or be discovered in the future and voluntarily assumes that risk as part of the consideration for this Agreement.

5. This Agreement is entered into for the purposes of compromising disputed claims and avoiding the expense, inconvenience, and uncertainty of litigation. Nothing contained in this Agreement, nor any consideration given pursuant to it, shall constitute or be deemed an admission of any breach, liability, or damages of any party.
6. No Admission of Liability. The Parties acknowledge that the Settlement Payment was agreed upon as a compromise and final settlement of disputed claims and that payment of the Settlement Payment is not, and may not be construed as, an admission of liability and is not to be construed as an admission that Blair Adhesives engaged in any wrongful, tortious or unlawful activity. Blair Adhesives specifically disclaims and denies any liability to Mr. Villalpando or violations of the CWA.
7. The Parties expressly understand and agree that this Agreement and its contents (including, but not limited to, the fact of payment, the amounts to be paid hereunder, the fact that a claim was made, and that an agreement was reached) shall remain CONFIDENTIAL and shall not be disclosed to any third party whatsoever, except the Parties' counsel, accountants, financial advisors, tax professionals retained by them, any federal, state, or local governmental taxing or regulatory authority, and the Parties' management, officers and Board of Directors, and except as required by law or order of court. If a question is placed to either party about the claim or allegations, the responding party shall only respond that "the parties amicably resolved all differences," provided, however, that in so doing, the Parties shall not disclose the fact or amount of any payments made or to be made hereunder and shall not disclose any other terms of this Agreement or the settlement described herein. If any subpoena, order or discovery request (the "Document Request") is received by any of the Parties hereto calling for the production of the Agreement, such

Party shall promptly notify the other Party hereto prior to any disclosure of same. In such case, the subpoenaed Party shall: (a) make available as soon as practicable (and in any event prior to disclosure), for inspection and copying, a copy of the Agreement it intends to produce pursuant to the Document Request unless such disclosure is otherwise prohibited by law; and (b) to the extent possible, shall not produce anything in response to the Document Request for at least ten (10) business days following such notice. If necessary, the subpoenaed Party shall take appropriate actions to resist production, as permitted by law, so as to allow the subpoenaed Party to protect confidential information.

8. The parties shall each bear their own attorney's fees and other expenses incurred as a result of the dispute to which this Agreement relates, including expenses for the negotiation and preparation of this Agreement.
9. This Agreement contains the entire understanding between the parties concerning the settlement of this dispute. Any and all prior negotiations that are not contained in this Agreement are superseded and are of no force or effect. Each party represents and warrants that no promise or inducement to enter into this settlement has been made to him or it that is not set forth in this Agreement.
10. Each party covenants and agrees to execute such further documents and perform such further acts as may be reasonable and necessary to effectuate the purposes of this Agreement.
11. This Agreement shall be interpreted in accordance with the laws of the State of California. Where the context requires, the masculine, feminine, and neuter genders shall be construed to include each other, as shall the singular and the plural and the past, present, and future tenses. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder shall be construed and enforced so as to best effectuate the intention of the parties at the time this Agreement was entered into.
12. This Agreement shall become effective on its execution by or on behalf of all parties. It may be executed in two or more counterparts, each of which shall be deemed to be an original, and all counterparts shall together constitute the Agreement.
13. This Agreement shall be effective from the date of its execution for a term of three (3) calendar years.
14. Any disputes arising under this agreement between the parties shall be subject to a notice and meet and confer process. Each party shall cause such notice to be disseminated to the other party no later than ten (10) days following the start of any such dispute under the Agreement. The parties shall thereafter meet and confer regarding the dispute no later than ten (10) days after the notice is received by the noticed party.
15. This Agreement may not be orally superseded, modified, or amended. No waiver, modification, or amendment shall be valid unless signed by all parties.

Dated: 9-9-20, 2020

Edgar Villalpando  
Edgar Villalpando

Dated: 9-11-20, 2020

[Signature]  
Approved as to form and content:  
Evan J. Smith, Esq.  
Attorney for Edgar Villalpando

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Blair Adhesive Products  
Scott Heger, President

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Approved as to form and content:  
Sudhir L. Burgaard, Esq.  
Attorney for Blair Adhesive Products

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Edgar Villalpando

Dated: \_\_\_\_\_, 2020

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Approved as to form and content:  
Evan J. Smith, Esq.  
Attorney for Edgar Villalpando

Dated: September 11, 2020

*BLAIR ADHESIVE PRODUCTS by Scott Heger*  
\_\_\_\_\_  
Blair Adhesive Products  
Scott Heger, President

Dated: September 11, 2020

*Sudhir L. Burgaard*  
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Approved as to form and content:  
Sudhir L. Burgaard, Esq.  
Attorney for Blair Adhesive Products